

CLAYTON COUNTY BOARD OF COMMISSIONERS

Regular Business Meeting
7:00 P.M.

December 1, 2015

POST SUMMARY MINUTES

PRESENT: Chairman Jeffrey E. Turner, Vice-Chairman Gail Hambrick, Commissioner Michael Edmondson, Commissioner Sonna Gregory, Commissioner Shana M. Rooks, and Clerk Sandra T. Davis.

1. Chairman Turner called the meeting to order.
2. Invocation was given by Pastor Joshua Goodrum of Miracle Temple Ministries, Riverdale, Georgia. The Pledge of Allegiance to the flag was led by Chairman Turner.
3. Adopted the agenda as presented. Vote unanimous.
4. Approved the November 17, 2015 Regular Business Meeting minutes. Vote unanimous.
5. PUBLIC COMMENT: Citizens will be given a three (3)-minute maximum time limit to speak before the Board of Commissioners about various topics, issues, and concerns. Following thirty minutes of hearing from the public, the Board of Commissioners will allow the remainder of citizens who have signed up to be heard at the next Tuesday business meeting. None.

Chairman Turner shared some history on Clayton County by informing that on, November 30, 1858, Clayton County was formed as created by former Governor Joseph E. Brown, who signed into legislation creating Clayton County as Georgia's 127th county in the State of Georgia; therefore, the county's birthday was on yesterday.

6. Considered requests of Debra Brewer, Director of Central Services. (NOTE: The entire Purchasing Ordinance for Clayton County, Georgia can be viewed on the MuniCode website. Citizens can access this website via the following website address: <http://library.municode.com/index.aspx?clientId=10562>.)

- 1) Approved the **Request for First Contract Amendment: RFB #14-42 Widening and Reconstruction of Anvil Block Road from Lunsford Drive to Allen Drive, Clayton County, Georgia.** (\$330,536.06 / Construction of a central driveway at Anvil Block Complex / C.W. Matthews, Contracting Company, Inc., located in Marietta, Georgia. Funding is available through 2004 SPLOST Funds). As requested by the Department of Transportation and Development. Pursuant to Section 2-136 (1) of the Clayton County Code of Ordinances,

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General Purchasing Methods; Clayton County utilizes the competitive sealed bid method when the costs of goods and services are in excess of \$25,000.00. The Clayton County Board of Commissioners has the final award approval for all non-budgeted bids \$35,000.00 and greater. All approved budgetary goods and services and annual contract purchases can be authorized by the Finance Director and purchased by the Director of Central Services without Board of Commissioners' approval. Motion passed 4 - 1. Commissioner Rooks opposed.

Commissioner Rooks asked why was there an amendment. Ms. Brewer explained that C.W. Matthews Contracting Company is currently performing a road widening and construction project there, because of the construction of the new facility and a possible senior center, the construction of a central driveway is required and since they are already under contract, it was economically feasible to add this to the scope of work.

Commissioner Rooks clarified that we are using the same company that would not use people from the county's SLBE Program and the same company that was cited Federally for falsifying documents. We are still using them and did not put this particular one out for bid. Ms. Brewer agreed that this is correct and further reiterated the reasons for using this company.

2) Approved the **Request for Second Contract Amendment: RFP #04-59 Consultant Design Services and Right of Way Acquisition Services for the Widening and Reconstruction of Mt. Zion Boulevard and Battle Creek Road, Clayton County, Georgia.** (\$1,401,025.00 / Kimley-Horn and Associates, Inc., located in Norcross, Georgia. Funding is available through 2004 SPLOST Funds). As requested by the Department of Transportation & Development. Pursuant to Section 2-136 (2) of the Clayton County Code of Ordinances, General Purchasing Methods; Clayton County utilizes the competitive sealed proposal method when the competitive sealed bid method is neither practical nor advantageous and when cost is not the primary consideration. The competitive sealed proposal method will be used when the costs of goods and services exceed \$25,000.00. All goods and services in the excess of \$25,000.00 are required to be purchased through the sealed proposal process, or negotiated by the Director of Central Services with full Board of Commissioners' approval. The Clayton County Board of Commissioners makes the final award for all non-budgeted proposals of \$35,000.00 and greater. Vote unanimous.

Commissioner Rooks said the change order was in the amount of \$1,401,025 and asked what was the original bid. Ms. Brewer determined that she did not have that information available. As Transportation and Development Director Jeff Metarko approached the rostrum, Commissioner Rooks asked a follow up question in that what was the bid of the second highest bidder. Transportation and

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Development Director Metarko recalled that the bid was awarded in 2005, the original value was 2,046,291; however, since then there have been a couple of change orders.

Commissioner Rooks expressed concerns, as she has raised in the past, in that the change orders that exceed the bids that were submitted that would have probably put them ahead of anybody else that submitted a lower bid. She asked if we are doing anything structurally to prohibit this process from going forward in the future. Transportation and Development Director Metarko explained that in this situation, the additional services of this change order were not contemplated at the time of the bid; these are for additional services outside of the original scope of work. Commissioner Rooks pointed out that this is for acquisition; therefore, we did not anticipate acquiring property through Georgia DOT (Department of Transportation). Transportation and Development Director Metarko explained that acquisition cost was determined in the original RFP and based off of Georgia DOT's current right-of-way processes; since that time, Georgia DOT has had numerous changes in their processes and basically pushed a lot of the services they were performing on these projects onto the locals.

3) Failed due to the lack of a second on the **Request for First Contract Amendment: RFP #14-61 Clayton County Juvenile Court Diversion Program, Georgia.** (\$100,000.00 / ENA, Inc., dba Necco, located in Jonesboro, Georgia. Funding is available through the Juvenile Court Services Juvenile Justice and Delinquency Prevention (JJDP) Grant). As requested by the Department of Juvenile Court. Pursuant to Section 2-136 (2) of the Clayton County Code of Ordinances, General Purchasing Methods; Clayton County utilizes the competitive sealed proposal method when the competitive sealed bid method is neither practical nor advantageous and when cost is not the primary consideration. The competitive sealed proposal method will be used when the costs of goods and services exceed \$25,000.00. All goods and services in the excess of \$25,000.00 are required to be purchased through the sealed proposal process, or negotiated by the Director of Central Services with full Board of Commissioners' approval. The Clayton County Board of Commissioners makes the final award for all non-budgeted proposals of \$35,000.00 and greater.

4) Approved the **Recommendation for Award: RFP #15-28 On Call Transportation Right of Way Acquisition Services for Clayton County, Georgia – Annual Contract for the Transportation & Development Department.** (Dianna Hunt & Associates, Inc., located in McDonough, Georgia. Funding is available through several sources, depending on project, that include Federal, State and SPLOST Funds for 2004, 2009 and 2015). As requested by the Department of Transportation & Development. Pursuant to Section 2-136 (2) of the Clayton County Code of Ordinances, General Purchasing Methods; Clayton County utilizes the competitive sealed proposal method when the competitive sealed bid method is neither practical nor advantageous and when cost is not the primary consideration. The competitive sealed

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proposal method will be used when the costs of goods and services exceed \$25,000.00. All goods and services in the excess of \$25,000.00 are required to be purchased through the sealed proposal process, or negotiated by the Director of Central Services with full Board of Commissioners' approval. The Clayton County Board of Commissioners makes the final award for all non-budgeted proposals of \$35,000.00 and greater. Vote unanimous.

5) Approved the **Recommendation for Award: RFP #15-34 Transportation Services for the Clayton County Senior Services Department – Annual Contract.** (MLB Transportation, Inc., located in Tucker, Georgia. Funding is available through the Atlanta Regional Commission Grant and the Senior Services Department's FY 2015 Budget). As requested by the Department of Senior Services. Pursuant to Section 2-136 (2) of the Clayton County Code of Ordinances, General Purchasing Methods; Clayton County utilizes the competitive sealed proposal method when the competitive sealed bid method is neither practical nor advantageous and when cost is not the primary consideration. The competitive sealed proposal method will be used when the costs of goods and services exceed \$25,000.00. All goods and services in the excess of \$25,000.00 are required to be purchased through the sealed proposal process, or negotiated by the Director of Central Services with full Board of Commissioners' approval. The Clayton County Board of Commissioners makes the final award for all non-budgeted proposals of \$35,000.00 and greater. Vote unanimous.

6) Approved the **Recommendation for Award: RFB #15-43 Panhandle Road Sidewalk Construction from McDonough Road to Tara Road for the Transportation & Development Department.** (\$778,583.75 / DAF Concrete, Inc., located in Marietta, Georgia. Funding is available through the 2009 SPLOST Funds). As requested by the Department of Transportation & Development. Pursuant to Section 2-136 (1) of the Clayton County Code of Ordinances, General Purchasing Methods; Clayton County utilizes the competitive sealed bid method when the costs of goods and services are in excess of \$25,000.00. The Clayton County Board of Commissioners has the final award approval for all non-budgeted bids \$35,000.00 and greater. All approved budgetary goods and services and annual contract purchases can be authorized by the Finance Director and purchased by the Director of Central Services without Board of Commissioners' approval. Vote unanimous.

7) Approved the **Request for Third Contract Amendment to the contract for Value Engineering Study for the Godby Road Widening Project.** (\$4,670.00 / AMEC E&I, Inc., located in Alpharetta, Georgia. Funding is available through 2004 SPLOST Funds). As requested by the Department of Transportation and Development. Pursuant to Section 2-136 (2) of the Clayton County Code of Ordinances, General Purchasing Methods; Clayton County utilizes the competitive sealed proposal method when the competitive sealed bid method is

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neither practical nor advantageous and when cost is not the primary consideration. The competitive sealed proposal method will be used when the costs of goods and services exceed \$25,000.00. All goods and services in the excess of \$25,000.00 are required to be purchased through the sealed proposal process, or negotiated by the Director of Central Services with full Board of Commissioners' approval. The Clayton County Board of Commissioners makes the final award for all non-budgeted proposals of \$35,000.00 and greater. Vote unanimous.

Vice Chairman Hambrick asked if staff has a date for the Godby Road Widening Project, at which time, Transportation and Development Director Metarko said we are currently looking at August 2016 authorization from DOT; that is contingent upon the Federal Government re-authorizing a new transportation funding bill.

8) Approved the **Recommendation for Renewal: Fiduciary Liability Insurance Policy.** (\$30,756.00 / BB & T-Reese Insurance. Renewal period of December 22, 2015 through December 22, 2016. Funding is available through the County's General Funds). Vote unanimous.

9) Approved the **Recommendation for Renewal: Property and Boiler & Machinery Insurance.** (\$196,806.00 / Edgewood Partners Insurance Center (EPIC) Insurance Brokers and Consultants, utilizing Travelers Property Casualty Company of America. Renewal period of January 1, 2016 through January 1, 2017. Funding is available through the County's General Funds). Vote unanimous.

10) Approved the **Recommendation for Renewal: Aviation Insurance Coverage.** (\$33,477.00 / Edgewood Partners Insurance Center (EPIC) Insurance Brokers and Consultants, utilizing Westchester Fire Insurance Company. Renewal period of January 1, 2016 through January 1, 2017. Funding is available through the County's General Funds). Vote unanimous.

11) Approved the **Recommendation for Renewal: Public Entity Excess Liability Insurance Policy.** (\$580,528.00 / Edgewood Partners Insurance Center (EPIC) Insurance Brokers and Consultants, utilizing Old Republic Insurance Company. Renewal period of December 31, 2015 through December 31, 2016. Funding is available through the County's General Funds). Vote unanimous.

7. Considered the requests of Ramona Bivins, Chief Financial Officer.

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- 1) Approved Budget Amendment #2-18/Federal Narcotics Condemnation Fund/FYE 6-30-16 - To amend in funds to purchase a new vehicle for the Sheriff's Office, in the amount of \$10,500. Motion passed 4 - 1. Commissioner Edmondson opposed.

Commissioner Edmondson recalled that around the beginning of the fiscal year, there was a conversation about the egregious amount of overtime that the Sheriff's Office expended. He also recalled that due to discussions from this board, Chairman Turner was to communicate and work with the Sheriff's budget to get that amount down or find other funding sources. He then asked what kind of dialogue has been had with the Sheriff around the use of this for other uses other than new cars, such as the overtime expenses. Chairman Turner explained that drug monies cannot be used for overtime or salaries. He advised that he has had a conversation with the Sheriff and the Sheriff has met with his command staff, and they have put a strategy in place to mitigate some of the overtime that has been accruing. He stated the Sheriff's request to purchase a vehicle out of narcotic funding is not subjected to be used for salaries.

Commissioner Edmondson then asked questions as it relates to supplanted funds. He said since the overtime is not something that is supplanted, why the Sheriff could not use it for that purpose. Chief Financial Officer Bivins stated she would check the code, but it is her understanding the funds could not be used for that purpose. She advised that she would research this matter and respond via email to the board. Chairman Turner added that the Sheriff does have a budget for overtime. Commissioner Edmondson pointed out that the amount is not for the millions of dollars that the Sheriff spends.

- 2) Approved Budget Amendment #2-19/State Narcotics Condemnation Fund/FYE 6-30-16 - To amend in funds to cover investigation supplies and court reporter fees, in the amount of \$174,522. Vote unanimous.

- 3) Approved Budget Amendment #2-20/Other General Government/FYE 6-30-16 - To replace one Sheriff's Office vehicle where repair cost exceeds the value of the vehicle, in the amount of \$30,320. Vote unanimous.

- 4) Approved the Request for Refund of a cash bond to Juan Alvarez as required for demolition projects not to rebuild, in the amount of \$500.00. Vote unanimous.

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8. Approved Resolution 2015-291 - A Resolution authorizing Clayton County to enter into a Grant Award Agreement with the Prosecuting Attorney's Council of Georgia and in accordance therewith accept additional grant funds to be used in connection with the Victims of Crime Act (VOCA) and the Clayton County Solicitor General's Office. Vote unanimous.

***Synopsis:** The State of Georgia has awarded grant funds to the Solicitor General's Office, in connection with VOCA, for the amount of \$36,615.00, with a local match of \$9,154.00 to be used to fund one new position in connection with VOCA.*

9. Approved Resolution 2015-292 - A Resolution authorizing Clayton County to enter into a Grant Award Agreement with the Prosecuting Attorney's Council of Georgia and in accordance therewith accept additional grant funds to be used in connection with the Victims of Crime Act (VOCA) and the Clayton County District Attorney's Victim Witness Assistance Program. Vote unanimous.

***Synopsis:** The State of Georgia has awarded grant funds to the District Attorney's Office, in connection with VOCA, for the amount of \$37,082.00, with a local match of \$9,271.00 to be used to fund one new position in connection with VOCA.*

10. Approved Resolution 2015-293 - A Resolution authorizing Clayton County to execute Right of Way Acquisition Contracts with the Georgia Department of Transportation for the Battle Creek Road and Mt. Zion Boulevard widening projects. Vote unanimous.

***Synopsis:** This Resolution will allow GDOT to proceed with the right of way phase of the projects.*

11. Approved Resolution 2015-294 - A Resolution authorizing Clayton County to apply for and, if awarded, accept the fiscal year 2016 Local Maintenance and Improvement Grant from the Georgia Department of Transportation on behalf of the Clayton County Transportation and Development Department. Vote unanimous.

***Synopsis:** The Board of Commissioners will authorize Clayton County to apply for the 2016 Local Maintenance and Improvement Grant from the Georgia Department of Transportation in the amount of \$1,469,391.41 with a required 30% local match in the amount of \$440,817.42 for a total project amount of \$1,910,208.83.*

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12. Approved Resolution 2015-295 - A Resolution authorizing Clayton County to accept two (2) forfeited vehicles from Clayton County Police Department Drug Investigations; to authorize the sale of such property; to provide for the disbursement of sale proceeds. Vote unanimous.

Synopsis: The Resolution allows the County to sell at auction a 2002 Toyota Tacoma (Prerunner) and 1999 Chevrolet Tahoe.

13. Approved Resolution 2015-296 - A Resolution of the Clayton County Board of Commissioners authorizing the execution, delivery and performance of an Intergovernmental Agreement in connection with the acquisition of a certain parcel of land by the Development Authority of Clayton County for economic development purposes. Motion passed 4 - 1. Commissioner Rooks opposed.

Synopsis: The County is authorized to levy and collect an annual tax, not to exceed one (1) mill, on all property within the County subject to ad valorem taxation.

Commissioner Rooks asked if this agreement allows for the Board of Commissioners to have any input with regards to the property after we enter into this agreement, or is it left up to the Development Authority. Chief Staff Attorney Christie Barnes advised that the Development Authority would have a purchase and sell agreement, and these funds are being used to purchase the site. The Development Authority would have to adhere to the purchase of that site. In terms of what would happen to the site once we transfer the funds to the Development Authority, she believes ultimately, the Board of Commissioners would be able to play a role in what happens to that site in connection with the Development Authority.

In response to a question from Vice Chairman Hambrick with regards to this board requiring future boards to take on responsibilities that the board has voted on, Chief Staff Attorney Barnes advised that the constitution allows the governing authority of counties to enter into intergovernmental agreements with other government agencies for not more than a term of 50 years.

14. Approved Resolution 2015-297 - A Resolution authorizing the Chairman to execute the final Clayton County Local Option Sales Tax distribution certificate. Motion passed 3 - 2. Vice Chairman Hambrick and Commissioner Gregory opposed.

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Synopsis: *This Resolution allows the Georgia Department of Revenue to appropriately distribute LOST proceeds beginning January 1, 2016 until June 30, 2022.*

15. Defeated Ordinance 2015-298 - An Ordinance to amend the Code of Clayton County, Georgia, as amended, specifically Part II, Chapter 62 “Offenses and Miscellaneous Provisions”, Article I “General” by adding a new Subsection 62-48 “Interference with County Enforcement Officer”.
Vote unanimous.

Synopsis: *This Ordinance prohibits anyone from interfering with a county Code Enforcement Officer in the performance of their lawful duties.*

Commissioner Gregory asked what has brought this on. Interim Chief of Police Michael Register explained that individuals are refusing to give their name and address, and this is an extra incentive to get individuals to comply with Code Enforcement Officers. He also called attention to a similar ordinance in the Code of Clayton County, Georgia Section 14-32 “Interference” as it relates to interference or hindering of an Animal Control Officer in the performance of their duties. He further explained that right now, if a person refuses to give information to a Code Enforcement Officer; then, the Code Enforcement Officer has to have a Police Officer called to the scene, and there is no alternative but to charge the person with a criminal act. Hopefully, this would prevent that if a person knows that if they did not comply, they would incur an additional charge. Also, if a person refuses to sign a summon, there would be an additional charge of interference with a Code Enforcement Officer.

Commissioner Edmondson asked for clarification on prima facie evidence of a violation in that any suspected person upon demand must present their identification; give their name, birth date, home address and home telephone number. He asked how is that not, in this world of Patriot Act and HIPPA, a violation of a person’s property. He pointed out this is not limited to just Code Enforcement Officers; he believes it reads “any employee of the county authorized”. Commissioner Edmondson asked that when the Interim Chief of Police responds that the explanation be for all; since, this is not just specific to Code Enforcement Officers. Interim Police Chief Register stated there are certain criteria that must be met in order for a law enforcement officer to demand identification of a person; there has to be probable cause or suspicion that a crime has occurred or would occur.

Interim Police Chief Register spoke of the difficulties in determining if a person is a business owner and offered a scenario of people who are not truthful in providing this information with a person

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later being identified as the owner of a business. He added that with a Code Enforcement Officer not having this leverage to demand this information; oftentimes, this prolongs the investigation.

Commissioner Edmondson asked if a Code Enforcement Officer demands a person's personal information and is denied that, is the Code Enforcement Officer post certified. Interim Police Chief Register said no. Commissioner Edmondson stated that the Code Enforcement Officer would have to call a uniform police officer anyway, which is what the remedy was before this proposal. He further stated that if the person under the current ordinance doesn't give that information to the uniformed police officer; then, that person would still be in violation of that. Interim Police Chief Register advised that if a uniformed police officer is called and the uniformed officer believes that information was needed; then, there would be a criminal charge of obstruction. Commissioner Edmondson maintained that with this ordinance, once the police officer is called and the person does not provide the information; then, there would be two citations for the same "offense" instead of just the one.

When Vice Chairman Hambrick reiterated the question of what brought this on, Major Ken Green explained that some issues were brought up by the citizens. He was then tasked by the committee to draft a proposal.

Commissioner Edmondson said even if we go through this process, the Magistrate Court has a history of reducing these fines or waiving them anyway; therefore, he does not see the need for this ordinance. Chairman Turner asked how are we going to hold people accountable for violations of law under the county ordinances if we can't get the information we need, at which time, Commissioner Edmondson said he does not have the answer, but he does not believe a larger police state and broader powers is the answer.

Commissioner Rooks said she understands the concerns both ways. She said Commissioner Edmondson did point out a very valid concern in that if it's a prima facie, if I do not give my name; then, I have violated the code and potentially subjected myself to a misdemeanor and jail time for not giving my name, and that is a problem. She said it may need to be reworked or tweaked.

Commissioner Gregory offered a suggestion such as researching property ownership, because she has a problem with putting more taxes on the citizens for not giving their names. Major Green stated that we would have to know a person's name and address in order to summons them to court.

Commissioner Rooks made a substitute motion to table Ordinance 2015-298. Commissioner Edmondson said since there is a motion on the floor, he would suggest voting it down. Motion to approve failed unanimously. All five commissioners opposed.

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Chief Staff Attorney Barnes requested an executive session on real estate and litigation.

16. Approved the reappointment of Mr. Garvey Cills to the Tax Assessors Board to fill the expiring term for which he is currently serving. The term is a three (3) year term, expiring December 31, 2018. (Full-Board Appointment) The motion passed 3 - 2. Vice Chairman Hambrick and Commissioner Gregory opposed.

Motion made by Commissioner Rooks, second by Chairman Turner, to go into Executive Session to discuss real estate, and litigation matters in the Commissioners' Conference Room at 7:54 p.m. Vote unanimous.

Motion made by Commissioner Rooks, second by Chairman Turner, to go out of Executive Session at 8:46 p.m. Vote unanimous.

Motion made by Chairman Turner, second by Commissioner Rooks, to reconvene the Regular Business Meeting in the Commissioners' Boardroom at 8:48 p.m. Vote unanimous.

Ms. Barnes presented the following two resolutions for board consideration and are listed as follows:

Approved Resolution 2015-298 - A Resolution authorizing Clayton County to enter into a settlement agreement and release with Paul R. Freeman and Checkers Drive-In Restaurants, Inc. for matters pertaining to Clayton County Superior Court Civil Action File No. 2008-CV-04852-9; and for other purposes. Vote unanimous.

Approved Resolution 2015-299 - A Resolution authorizing Clayton County to enter into a settlement agreement and general release settling all claims set forth in the matters involving Deborah Stanley. Vote unanimous.

Commissioner Gregory called attention to the Board of Appeals being unable to have a meeting last week due to the lack of a quorum. Vice Chairman Hambrick asked about the notification to members with regards to the meetings, because her appointee has not received notices of meetings. Chairman Turner asked Chief Staff Attorney Barnes to get information to the board on who notifies the members on the Board of Appeals about meeting dates.

There being no further business to discuss, motion by Commissioner Rooks, second by Chairman Turner, to adjourn the Regular Business Meeting of December 1, 2015 at 8:51 p.m. Vote unanimous.